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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/463,598      | 01/27/2000  | MARTIN STARZMANN     | GP7287US            | 6529             |

7590 09/09/2003

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EXAMINER

HAMLIN, DERRICK G

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1751

DATE MAILED: 09/09/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/463,598

Applicant(s)

STARZMANN, MARTIN

Examiner

Derrick G. Hamlin

Art Unit

1751

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Declaration***

Applicant's declaration filed 6/19/2003 has been fully considered and is not deemed to be persuasive.

### ***Response to Arguments***

Applicant's arguments filed 6/19/2003 have been fully considered but they are not persuasive. Applicant's statement in form of a declaration that he does not know anyone who has used a frost resistant, non-toxic, heating and cooling fluid does not make the composition patentable.

1. The rejection of claims 1-14 under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,242,621) is maintained for the following reasons:

The applicant has simply rehashed the arguments from the previous office action, therefore the examiner has quoted the office action mailed 12/19/2002.

The applicant admits that the reference does not require glycol be used and that the reference states that "other freezing point depressants" may be used. However, the applicant argues that only glycols would be obvious to the skilled artisan and at the same time argues that one skilled in the art would not interpret the reference to mean anything other than glycols in spite of its teaching of "other freezing point depressants".

The examiner disagrees and takes the position that a skilled artisan would interpret "other freezing point depressants" to mean freezing point depressants other than glycol.

Therefore it would have been obvious to create the instantly claimed heating or cooling in view of Miller, as the references teaches the use of a corrosion inhibitor which may contain a hydrocarbyl dicarboxylic, carbocyclic-substituted, alkanolic acids, other carboxylic acids or salts, triazoles or other materials useful in antifreeze or heat transfer fluids.

Art Unit: 1751

2. The rejection of claims 1-14 under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,242,621) as applied to claims 1-14 above, and further in view of Back et al (4689165) or Kardos et al (4,689,165) is maintained for the following reasons:

Applicant argues that the Back reference is drawn to a deicing composition, although the reference is analogous art and clearly teaches a freezing point depressant free of glycol (col. 4, line 33-37).

Applicant argues that the Kardos reference only teaches the composition is non-toxic and fails to teach that it is environmentally sound. The applicant has not asserted that the composition of Kardos is not environmentally sound anywhere in the declaration.

Again, although the primary reference teaches that "other freezing point depressants" may be used, it does not teach specific examples. The secondary reference, Back, discloses a freezing point depressant free of glycol (col. 4, line 33-37). Kardos discloses a glycol free anti-freeze liquid (col. 4, line 35-49).

Therefore it would have been obvious to create the instantly claimed heating or cooling in view of Miller, as the references teaches the use of a corrosion inhibitor which may contain a hydrocarbyl dicarboxylic, carbocyclic-substituted, alkanolic acids, other carboxylic acids or salts, triazoles or other materials useful in antifreeze or heat transfer fluids.

Accordingly, the rejection is maintained.

### ***Conclusion***

Art Unit: 1751

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

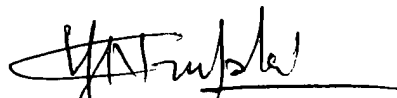

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (703) 305-0590. The examiner can normally be reached on Monday-Thursday and alternating Fridays from 8:30 AM - 5:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Derrick G. Hamlin

9/5/03



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